

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

IN RE AQUEOUS FILM-FORMING
FOAMS PRODUCTS LIABILITY
LITIGATION

Case No. 2:18-mn-2873-RMG

**STIPULATION CONCERNING KIDDE-
FENWAL, INC.'S GOVERNMENT/
MILITARY CONTRACTOR DEFENSE**

**This Document Relates to
Case No. 2:18-cv-3487-RMG**

CITY OF STUART, FLORIDA,

Plaintiff,

v.

3M COMPANY, *et al.*,

Defendants.

WHEREAS, on October 18, 2018, Plaintiff City of Stuart, Florida (“Plaintiff”) initiated this action, *Stuart v. 3M Company et al.*, No. 18-cv-3487 (D.S.C.) (the “Action”), by filing a Complaint alleging, inter alia, various products-liability claims against multiple parties including Defendant Kidde-Fenwal, Inc. (“Kidde-Fenwal”) (ECF No. 1);

WHEREAS, on October 3, 2019, Plaintiff filed an Amended Complaint (ECF No. 35) and, on September 25, 2020, Plaintiff filed a Second Amended Complaint (ECF No. 54);

WHEREAS, on April 5, 2021, Kidde-Fenwal filed an Answer to Plaintiff’s Second Amended Complaint (“Answer”) in which it asserted that “each alleged claim contained therein[] is barred, in whole or in part, because Defendants are entitled to immunity from suit under the government/military contractor defense” (ECF No. 89 at 37);

WHEREAS, Plaintiff does not contend that it purchased or used any AFFF products that were designed, distributed, manufactured and/or sold by Kidde-Fenwal that were manufactured in compliance with the U.S. Department of Defense military specifications

(“MilSpec”) for use by government entities;

WHEREAS, Plaintiff contends that the only AFFF product that it purchased or used that was designed, distributed, manufactured and/or sold by Kidde-Fenwal is Universal Gold;

WHEREAS, Universal Gold was not manufactured or sold as a MilSpec AFFF product;

WHEREAS, Plaintiff has requested that Kidde-Fenwal withdraw its government-contractor affirmative defense in the Action on the basis that Universal Gold is not MilSpec AFFF;

WHEREAS, the parties have met and conferred and, in order to provide for the efficient adjudication of the case, have agreed to the terms as set out below;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED that:

1. Plaintiff agrees that it shall not advance any claims against Kidde-Fenwal in the Action related to any products other than Universal Gold purchased or used by Plaintiff including its Fire Rescue Department.

2. In reliance on Plaintiff’s representation in paragraph 1, Kidde-Fenwal agrees to withdraw affirmative defense number 7 from its Answer, which claims that Kidde-Fenwal is entitled to immunity from suit under the government/military contractor defense.

Dated: January 31, 2023

/s/ Gary Douglas

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Attorneys for Kidde-Fenwal, Inc.

Date: January 31, 2023

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was electronically filed with this Court's CM/ECF system on January 31, 2023 and was therefore served automatically on all counsel of record in this matter.

/s/ Gary Douglas